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U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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Attorneys for Plaintiff
Mark Harris

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MARK HARRIS

Case No: C-08-01810 JSW

Plaintiff,
vs.

**DECLARATION OF MARC L. TERBEEK
RE: LATE FILING OF JOINT CASE
MANAGEMENT CONFERENCE
STATEMENT**

UNITED PARCEL SERVICE, et al.

Defendants.

Date: August 8, 2008
Time: 1:30 p.m.
Crtrm: 2, 17th Floor

BY FAX

I, Marc L. TerBeek, do hereby declare as follows:

1. I am an attorney licensed to practice law in all of the courts of the State of California and am a partner with **MEHLMAN ♦TERBEEK LLP**, attorneys for Plaintiff herein. I make this Declaration of my own personal knowledge and can testify to same if called as a witness in this action.
2. I am the partner assigned to supervise the handling of this case. Prior to July 2, 2008, the associate with my firm assigned to handle the matter was Matthew Oliveri, who had been hired by my law firm on January 15, 2008.
3. Between January and July, Mr. Oliveri had competently handled this matter and kept me abreast of developments in the case. I monitored the matter and Mr. Oliveri's handling of the matter, and it appeared that he was keeping abreast of the

1 case.

2 4. On July 2, 2008, Mr. Oliveri left for an unannounced trip out of state, and on July
3 2, 2008, communicated a demand for a substantial increase in salary, giving my
4 firm a three day window to accept. Thus began a back-and-forth string of
5 communications in which Mr. Oliveri asserted that all of his cases were under
6 control and that he would advise us of the status of such cases on his return on
7 July 21, 2008. Following his July 2, 2008 communication, Mr. Oliveri repeatedly
8 suggested that he would provide us case status and other information on his
9 matters to allow a smooth transition.

10 5. In fact, Mr. Oliveri never returned, but instead had effectively abandoned his job
11 as of July 2, 2008, only informing us that he had no intention of returning on July
12 23, 2008. He never provided us the promised case status reports which impaired
13 the transition of the files

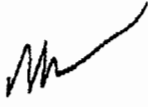
14 6. Mr. Oliveri's abandonment of this job, coupled with his unlawful and improper
15 solicitation of firm clients caused havoc and chaos in our offices while we sought
16 to sort out what needed to be done on his matter.

17 8. One such matter was the instant case, in which Mr. Oliveri had represented to me
18 that the initial disclosures had taken place and that the parties had agreed on a
19 Joint CMC Statement, neither of which was true. I first learned of this fact on the
20 afternoon of July 30, 2008, when reviewing an email from defense counsel. At
21 that time, however, I was on my way out of state for a pre-planned family event in
22 Michigan, from which I intended to return Monday morning, August 4, 2008.
23 However weather problems in Chicago delayed that flight and I did not arrive in
24 the Bay Area until the late afternoon of August 4, 2008.

25 9. On my return to the office on the morning of August 5, 2008, I immediately
26 contacted defense counsel to coordinate the filing of the Joint CMC Statement,
27 which I anticipate will be filed prior to the close of business on August 5, 2008.

28 10. Defendants bear no responsibility whatsoever for the delay in filing the Joint

1 I declare under penalty of perjury under the laws of the United States and the State of
2 California, that the foregoing is true and correct, and that this Declaration was executed in
3 Oakland on August 5, 2008

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5 _____
6 Marc L. TerBeek
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PROOF OF SERVICE

Re: Harris v. United Parcel Service, et al.
United States District Court, Northern District of California - San Francisco Division,
Case No.: C-08-01810 SJW

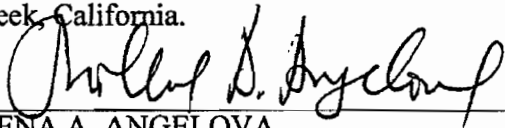
I, Milena A. Angelova, am employed in Contra Costa County, California. I am over the age of eighteen years and not a party to the within action. My business address is 2125 Oak Grove Road, Suite 125, Walnut Creek, CA 94598. On August 5, 2008, I served the following documents:

DECLARATION OF MARC L. TERBEEK RE: LATE FILING OF JOINT CASE MANAGEMENT CONFERENCE STATEMENT

- (BY HAND): By giving a true copy(ies) thereof in sealed envelope(s) to (name of service) for hand delivery to the office of the party(ies) listed below or providing copies to all parties at Mediation.
- (BY E-MAIL): By transmitting via the WWW a true copy(ies) thereof.
- (BY MAIL): By placing a true copy in envelope(s) addressed as referenced below. The envelope(s) were then sealed and deposited for collection and mailing in accordance with my employer's normal procedures. I am readily familiar with the firm's practice for collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service, with all postage prepaid, at Walnut Creek, California, on the same day in the ordinary course of business.
- (BY FACSIMILE): Pursuant to agreement of the parties in compliance with California Rules of Court, Rule 2008, by use of facsimile machine telephone number (925) 935-1789, I served a true and correct copy of the above-referenced document(s) on all interested parties in this action by facsimile transmission to the facsimile number(s) listed below prior to 5:00 p.m. The transmission was reported as complete and without error on a printed report issued by said facsimile machine upon completion of the transmission.
- (STATE): I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
- (FEDERAL): I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

COUNSEL FOR DEFENDANT UPS
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E-mail: annachu@Paulhastings.com

Executed on August 5, 2008 at Walnut Creek, California.


MILENA A. ANGELOVA